

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

ESTATE OF ROGER D. :
OWENSBY JR., et al., :
:
Plaintiffs, :
vs. : Case No. 01-CV-769
: (Judge S. A. Spiegel)
CITY OF CINCINNATI, :
et al., :
:
Defendants. :

Videotaped deposition of ROBERT BLAINE JORG, a defendant herein, called by the plaintiffs for cross-examination, pursuant to the Federal Rules of Civil Procedure, taken before me, Wendy Davies Welsh, a Registered Diplomate Reporter and Notary Public in and for the State of Ohio, at the offices of Helmer, Martins & Morgan Co. LPA, 1900 Fourth & Walnut Centre, 105 East Fourth Street, Cincinnati, Ohio, on Tuesday, October 14, 2003, at 10:12 a.m.

Estate of Owensby vs. City of Cincinnati
October 14, 2003

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1 S T I P U L A T I O N S

2 It is stipulated by and among counsel for the
3 respective parties that the deposition of ROBERT
4 BLAINE JORG, a defendant herein, called by the
5 plaintiffs for cross-examination, pursuant to the
6 Federal Rules of Civil Procedure, may be taken at
7 this time by the notary; that said deposition may be
8 reduced to writing in stenotype by the notary, whose
9 notes may then be transcribed out of the presence of
10 the witness; and that proof of the official
11 character and qualifications of the notary is
12 expressly waived.

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1 APPEARANCES (Continued):

2 On behalf of the Defendants Robert B. Jorg,
3 Patrick Caton, Jason Hodge, Victor Spellen and
Darren Sellers:

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12 Mr. Roger Owensby
13 Mrs. Brenda Owensby
Mr. Shawn Owensby

14 Patrick Edmund Caton

15 Victor Spellen

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(800) 578-1542 * MERIT * (513) 381-8228

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1	VIDEOPHAGER: The time is 10:16 a.m. it	1 sir. You've been placed under oath. You are being
2	is October the 14th. The year is 2003. If you	2 videotaped. I will ask you questions. If you do
3	would swear the witness, ma'am.	3 not understand a question that I have asked or you
4	ROBERT BLAINE JORG	4 have not heard a question that I have asked, please
5	being by me first duly cautioned and sworn, deposes	5 ask for clarification and I will endeavor to provide
6	and says as follows:	6 you with clarification. If at any time I ask you a
7	VIDEOPHAGER: We're on the record, Mr.	7 question and you provide an answer, I'm going to
8	Martins.	8 assume that you heard and understood the question
9	CROSS-EXAMINATION	9 and have provided a truthful answer in response. Is
10	BY MR. MARTINS:	10 that fair?
11	Q. Sir, would you state for the record your	11 A. That's fair.
12	name, please.	12 Q. Also, if at any time you want to take a
13	A. Robert Blaine Jorg.	13 break, please ask and we'll endeavor to accommodate
14	Q. Your address?	14 you in that regard.
15	MR. HARDIN: Objection. He will not	15 Are you under any physical or mental
16	provide his address.	16 impairment that would cause you not to understand
17	MR. MARTINS: Why not?	17 questions put to you today?
18	MR. HARDIN: I'll get into it. I'll talk	18 (Witness and counsel conferred.)
19	to you privately about it.	19 MR. MARTINS: Objection to the
20	Q. State your address, please.	20 consultation. This is a deposition.
21	MR. HARDIN: Objection. Instruct the	21 Q. You don't get to talk to counsel. Answer
22	witness not to answer.	22 the question.
23	Q. Are you going to follow the direction of	23 A. I have unfortunately not been able to
24	counsel not to provide your address?	24 reach my psychologist that I am seeing at this time.
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1	A. Yes, I am.	1 I am under evaluation by him. I don't know if that
2	Q. State your age.	2 is going to impair the ability, but it does make the
3	A. 32.	3 situation a little bit more uncomfortable, yes.
4	Q. Date of birth?	4 Q. Do you -- are you taking any medication?
5	A. 9/14/71.	5 A. Not at this time.
6	Q. Before the deposition started, sir, there	6 Q. Do you believe that you are able to
7	were -- you were standing outside and there were two	7 accurately recall facts?
8	other gentlemen with you and they have followed you	8 A. Yes.
9	into the room. Who are those people?	9 Q. Do you believe that you will be able to
10	A. Patrick Caton and Victor Spellen.	10 truthfully provide answers to my questions?
11	Q. Point out for us who Patrick Caton is?	11 A. Yes.
12	A. Patrick Caton is sitting to my rear on the	12 Q. When was the first time that you realized
13	right, Victor Spellen to my rear on the left.	13 that Roger Owensby Jr. was dead?
14	Q. On November 7th, 2000, what was your	14 A. I believe it was informed to me on the way
15	weight?	15 to CIS.
16	A. I have no idea.	16 Q. Who told you?
17	Q. Generally?	17 A. Whoever was driving me down. I believe it
18	A. Right around 220, 225.	18 was Lieutenant Luebbe.
19	Q. And you are 6 foot 4?	19 Q. I'm sorry, I missed that. Lieutenant --
20	A. Correct.	20 A. -- Luebbe, I believe that's who he was.
21	Q. Have you ever had a deposition taken	21 Q. Were you in Lieutenant Luebbe's car?
22	before?	22 A. Correct.
23	A. No, I have not.	23 Q. Was this the evening of November 7th,
24	Q. Let me explain some ground rules for you,	24 2000?

	Page 22	Page 24
1	A. Correct.	1 Q. Is this the Cincinnati -- well, what was
2	Q. The next page, 1617, is an Official Oath,	2 the name of the facility in which you were -- to
3	3 and is that your signature on that page?	3 which you were assigned?
4	A. Yes.	4 A. It was the Police Academy.
5	Q. And that is the oath that you take when	5 Q. Police Academy. And then on June 9th,
6	6 you become a Cincinnati police officer; is that	6 1996, approximately six months later, you are
7	7 correct?	7 "promoted to Police Officer; assigned to District
8	A. Yes.	8 2," correct?
9	Q. Is this an oath that is taken with other	9 A. Correct.
10	10 officers or is something that you do privately?	10 Q. On October 5, 19 -- is that '97?
11	11 A. I believe they swore us all in at the same	11 A. Yes.
12	12 time.	12 Q. Transferred to District 4. Why were you
13	13 Q. So someone stands up and asks you to swear	13 transferred from District 2 to District 4?
14	14 that you "do solemnly swear that I will support the	14 A. We were the last class to rotate. What
15	15 Constitution of the United States of America, and	15 they used to do was, I believe it was every year,
16	16 the Constitution and Laws of the State of Ohio, and	16 once you get to your main district, you were then --
17	17 the Charter, Laws and Ordinances of the City of	17 once you settled in and figured your roots out, they
18	18 Cincinnati, and that I will well and faithfully	18 would then transfer you to another district to give
19	19 discharge these duties of the office of Cincinnati	19 you a fresh start. That was just a practice that
20	20 police officer to which I have been appointed,	20 they had kept. We were the last class to do that.
21	21 according to Law and the best of my ability;" is	21 Q. And I take it then, when you were at
22	22 that correct?	22 District 4 that practice discontinued and you simply
23	23 A. Right. Correct.	23 remained at District 4?
24	24 Q. Do you know who administered that oath to	24 A. That's correct.
	Page 23	Page 25
1	1 you?	1 Q. The last entry is December 2 of 2001,
2	2 A. I believe it was one of the sergeants in	2 "Transferred to Impound Unit"; is that right?
3	3 the Academy. I'm not sure which one it was. It may	3 A. Yes.
4	4 have been the commander of the academy. I don't	4 Q. Why were you transferred to the Impound
5	5 remember.	5 Unit?
6	6 Q. And then sometime later you signed this	6 A. I'm trying to think when that was. I
7	7 oath?	7 believe that's when I had my police powers
8	8 A. Correct.	8 reinstated from Chief Streicher, and while the
9	9 Q. And, in that case, you did that in the	9 investigation was still going on I was transferred
10	10 presence of a notary, in this case, a Roger Wolf?	10 there.
11	11 A. Correct.	11 Q. Where is the Impound Unit?
12	12 Q. And that was all accomplished on June 6th	12 A. On Spring Grove Avenue.
13	13 of 1996, correct?	13 Q. And how long did you stay in the Impound
14	14 A. Correct.	14 Unit?
15	15 Q. On the next page we have C1618. It says	15 A. I believe to the mid of March.
16	16 Continuous Service Record. It indicates that on	16 Q. What happened then?
17	17 January 14, 1996 you were "appointed to Police	17 A. I left the Cincinnati Police Division.
18	18 Recruit" and "assigned to Training Section"; is that	(Plaintiffs' Exhibit 2 18 was marked for identi-
19	19 correct?	19 fication.)
20	20 A. Yes.	20 Q. Handing you, sir, Plaintiffs' Exhibit
21	21 Q. And where, physically, were you located to	21 Number 2.
22	22 be "assigned to Training Section"?	22 Exhibit 2, sir, is made up of three
23	23 A. I don't remember the address. It was on	23 documents. First is a January 25, 2001 City of
24	24 Pete Rose Way.	24 Cincinnati internal correspondence sheet memorandum

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1 from Kent Ryan, Safety Director -- I'm sorry, to 2 Kent Ryan, Safety Director, from S. Gregory Baker, 3 Assistant Safety Director, with copies to Chief 4 Streicher. The subject is listed as Police Officer 5 Robert B. Jorg, Pre-Disciplinary Hearing. Have you 6 ever seen this document before? 7 A. No, I have not. 8 Q. Okay. Let's go to the next document. I 9 apologize, these pages are not Bates numbered, but 10 if you go to the next document, which is a City of 11 Cincinnati internal correspondence sheet dated 12 January 4, 2001, it is addressed to Police Officer 13 Robert B. Jorg, from Colonel Thomas H. Streicher 14 Jr., Police Chief. Subject, Notice of Suspension of 15 Police Powers, and it is -- I'm not sure if I 16 recognize the signature. Do you recognize the 17 signature? 18 A. I believe that's Captain Snider. 19 Q. Snider? 20 A. I believe so. 21 Q. Do you recall being notified on January 4, 22 2001 of a suspension of your police powers? 23 A. I remember being suspended, but not the 24 date.	1 Clermont County, Ohio. 2 Q. And were you employed in Pierce Township 3 Police Department as a police officer? 4 A. Yes, I was. 5 Q. How long were you employed there? 6 A. From April 1st until, I believe it was 7 June 30th of this year. 8 Q. Why did you -- why was your employment 9 with Pierce Township ended on June 30, 2003? 10 A. I have been seeing a doctor, psychologist, 11 in reference to this situation, and with the 12 diagnosis he gave me, I applied for disability 13 retirement. I am now on a psychological disability. 14 Q. Is it called a disability retirement? 15 A. Yes. 16 Q. Who is your -- this psychiatrist or 17 psychologist that provided you with the diagnosis? 18 A. Dr. Daum. 19 Q. Dr. -- 20 A. Daum, D-A-U-M. 21 Q. Is this doctor a psychiatrist or a 22 psychologist, if you know? 23 A. I believe he is a psychologist. 24 Q. Where is Dr. Daum located?
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1 Q. And if you go to the last page, on 2 March 20, 2002, we have an internal correspondence 3 sheet to Colonel Thomas H. Streicher Jr., Police 4 Chief, from Officer Robert B. Jorg, Impound Unit, 5 Subject is Resignation, stating that, "I will resign 6 from the Police Department on Wednesday, March 20, 7 2002. My last working day will be Tuesday, 8 March 19th, 2002." Is that your signature? 9 A. Yes. 10 Q. And it's dated March 20, 2002. Do you 11 recall submitting this resignation? 12 A. Yes. 13 Q. Do you recall having the -- or receiving a 14 copy back that it had been approved by Chief 15 Streicher? 16 A. I don't recall ever receiving any further 17 correspondence from Chief Streicher. 18 Q. Are you currently employed? 19 A. No, I am not. 20 Q. After March 20 of 2002, between that time 21 period and today, have you been employed? 22 A. Yes. 23 Q. Where have you been employed? 24 A. Pierce Township Police Department,	1 A. On Auburn Avenue. 2 Q. I take it since June 30, 2003 then, you 3 have not been employed? 4 A. That is correct. 5 Q. On November 7, 2000 you employed, I 6 believe, what you termed a "head wrap technique"; is 7 that right? 8 A. Correct. 9 Q. Where did you learn the head wrap 10 technique? 11 A. Cincinnati Police Academy. 12 Q. Who taught you? 13 A. I believe it was, at the time, Police 14 Officer Herb Hood and Sergeant Mike Gardner. 15 Q. Were there any precautions that these 16 officers, Hood and Gardner, advised you of when 17 using the head wrap technique? 18 A. Not that I can recall. Precautions? Can 19 you be a little bit more specific? 20 Q. I'm sorry? 21 A. Can you be a little bit more specific in 22 regards to precautions. 23 Q. How to apply it, dangers in -- in 24 employing it, how not to apply it, those sorts of

	Page 30	Page 32
1 things.		1 A. It can be, yes.
2 A. They walked through me how it should be	2 Q. And when these officers at the Cincinnati	3 Police Academy instructed you, did they tell you
3 accomplished and expressed, what signs you need to	4 that it could be used independent of a pressure	5 point application?
4 look for, that type of thing, to gain compliance of	6 A. Yes.	
5 a suspect, yes.	7 Q. Now, I was asking you about the side of	8 the head. How -- how would you apply the side of
6 Q. Where upon the head did they advise you	9 the head application of the --	
7 the head wrap technique should be employed?	10 A. You can use --	
8 A. Several different locations.	11 Q. -- head wrap technique?	12 A. -- your entire arm, you can use part of
9 Q. Okay. Could you tell me where those	13 your hand, you can use an inanimate object, anything	14 to stabilize the head to keep it from moving.
10 locations were, according to what they told you.	15 Q. And where along the side of the head would	16 you be applying either your hand or your arm?
11 A. Underneath the chin, on the side of the	17 A. From the ear up to the top of the hairline	
12 head, the top of the head, the forehead.	18 (indicating).	
13 Q. Under the chin, side of the head, top of	19 Q. The third technique was the top of the	20 head?
14 the head, and forehead?	21 A. Correct.	
15 A. Correct.	22 Q. I guess, counterpressure, how would that	23 be applied?
16 Q. Those are the four?	24 A. Well, with the under the chin, you use the	
17 A. Yes.		
18 Q. With respect to the under-the-chin		
19 implementation of the head wrap technique, could you		
20 demonstrate for me, not by using someone, but just		
21 showing me with your arms or pointing on your face,		
22 where your arms would be employed?		
23 A. If you're using under the chin, you'd cup		
24 your hand and it goes under the chin (indicating).		
	Page 31	Page 33
1 Q. So it's just the hand --	1 fingers and palm of the hand to wrap the bottom part	
2 A. Correct.	2 of the chin. For the top of the head, your arm is	
3 Q. -- being placed under the chin? As to the	3 parallel, like his -- the ear would be here	
4 side of the head technique, how would that be	4 (indicating), the top of the head would be here, and	
5 employed?	5 the nose and eyes would be this way, and you cup and	
6 A. Basically, these holds, you never know	6 wrap the top part of the head.	
7 where the suspect is going to be, what position	7 Q. And then what, pull down?	
8 you're going to be in with them. If he's laying on	8 A. No. And then you apply pressure to	
9 his side, you can lay your arm straight out as his	9 whatever pressure point it is that you're going to	
10 head lays down on the side of it, because what you	10 be using.	
11 need to employ a pressure point technique is	11 Q. And the forehead technique?	
12 pressure and counterpressure. If you just push on	12 A. Is pretty much the same. You wrap your	
13 the pressure point without counterpressure, it does	13 arm around, you put the suspect's forehead in the	
14 no good, so you need the counterpressure.	14 pocket of your arm, again, to stabilize the arm, and	
15 If he's on a sofa and you've got the arm	15 then manipulate whatever the pressure point is that	
16 of the chair, then you use the arm of the chair to	16 you're going to be using (indicating).	
17 apply the counterpressure, that's all you need to	17 Q. And when you say the "pocket of your arm,"	
18 apply, and your arm would be straight out if their	18 are you referring to the joint where the elbow is?	
19 head was down, and you apply counterpressure.	19 A. Correct.	
20 Q. So this head wrap technique is part of the	20 Q. On November 7th, 2000, did you employ	
21 pressure point application?	21 this, I think in your prior statements you referred	
22 A. Correct.	22 to it as a head wrap technique, did you employ a	
23 Q. Is it used independent of a pressure point	23 head wrap technique?	
24 application?	24 A. Yes, I did.	

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1 Q. And which one of the four that you've 2 described for me did you employ? 3 A. The forehead. The last one I 4 demonstrated. 5 Q. Was this in conjunction with a pressure 6 point technique or was it independent of a pressure 7 point technique? 8 A. It was with a pressure point. 9 Q. And the -- so when you applied the 10 forehead head wrap technique, it was in conjunction 11 with a pressure point technique? 12 A. Correct. 13 Q. And the pressure point technique that you 14 used was the mandibular angle pressure point; is 15 that right? 16 A. Correct. 17 Q. And that's where you press, I guess, your 18 thumb under the jaw? 19 A. No. 20 Q. Demonstrate for me just where you put -- 21 A. The mandibular angle pressure point is 22 right behind the base of the ear (indicating). 23 Q. Okay. And so how -- how did you apply the 24 mandibular angle pressure technique on November 7,	1 A. Yes. 2 Q. All right. How long did you have the 3 forehead -- I think you said forehead -- head wrap 4 technique before you employed the mandibular 5 pressure technique? 6 A. Almost immediately. 7 Q. And the reason you used the forehead head 8 wrap was in order to provide a counterpressure for 9 the pressure point? 10 A. Correct. 11 Q. That was the only reason? 12 A. Not 100 percent. 13 Q. Was there any other reason? 14 A. With the situation that was in, when the 15 altercation first started I was on my back and Mr. 16 Owensby was on top of me. As I rolled him over and 17 tried to gain compliance, that's when the other 18 officers had arrived. 19 Q. Okay. But my question is, was there any 20 other reason why you used this head wrap technique 21 other than to serve as counterpressure to the 22 pressure point? 23 A. To stabilize the head. 24 Q. And as I understand your testimony, you
1 2000? 2 A. It's what's called the digital tip. It 3 basically is the tip of your finger. What I did is, 4 once I had Mr. Owensby stabilized with the head 5 wrap, I applied to -- what you're -- what you're 6 supposed to do with a pressure point is look for 7 compliance. You apply the pressure, give the 8 command, look for compliance. When a subject is 9 resisting as strongly as he was, the only way you 10 can overcome strength is with pain compliance 11 techniques. 12 Q. Okay. All I'm asking is how you employed 13 the pressure point technique at this point. 14 A. I had his head stabilized with my left 15 hand around his forehead here (indicating). I 16 brought in my right hand -- thumb, and applied it to 17 the mandibular angle, looking for compliance. 18 Q. So it was the thumb at the base of the ear 19 and the jaw bone? 20 A. At the base of the ear. The jaw bone's 21 down here (indicating). 22 Q. Oh, okay. 23 A. Down here where -- 24 Q. Base of the ear?	Page 35 1 applied the head wrap technique almost 2 simultaneously with the application of the pressure 3 point? 4 A. That's correct. 5 Q. So it would have been a matter of one or 6 two seconds between the time the head wrap was 7 applied and the time the pressure point was applied? 8 A. Correct. 9 Q. And then, my follow-up is, was there any 10 other reason to apply the head wrap other than as a 11 counterpressure for the pressure point? 12 A. To stabilize the head. If you stabilize 13 the head, the rest of the body pretty much follows. 14 And in a struggling situation, if you can get the 15 feet or the head, top part of the body, it helps 16 stabilize the person so their resisting goes down 17 and there's fewer damage to the officers and the 18 suspect. I had the top part of the head, I stayed 19 with that. 20 Q. As to this -- well, let me ask you. Did 21 your arm ever drop to the area of Mr. Owensby's nose 22 and mouth? 23 A. I don't believe so, no. 24 Q. Did it ever drop to the area of Mr.
Page 37	

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1	Owensby's chin and throat?	1 certain times when something came up and I asked the
2	A. No, it did not.	2 supervisors at the time, the lieutenants, if I could
3	Q. Had you used this head wrap technique	3 share information. So yes, I've trained.
4	before November 7, 2000?	4 Q. Now, as I say to -- and those recruits
5	A. Yes.	5 that would ride with you, would that be -- is that
6	Q. On how many occasions?	6 called an FTO?
7	A. Quite a few.	7 A. FTO program.
8	Q. Are we talking more than ten?	8 Q. Okay. In this training for Cincinnati
9	A. Probably, yes. It's been --	9 police officers, did you train them in this head
10	Q. More --	10 wrap technique?
11	A. It's been a long time.	11 A. No.
12	Q. More than twenty?	12 Q. Did you ever demonstrate the head wrap
13	A. I don't think more than twenty.	13 technique to other officers, whether it be on a
14	Q. Somewhere between ten and twenty would be	14 scene or at District 4 or anywhere?
15	fair?	15 A. No.
16	A. Yes.	16 Q. Did you ever demonstrate this technique to
17	Q. Had you employed this head wrap technique	17 any supervisors?
18	in the presence of other police officers?	18 A. No.
19	A. Yes.	19 Q. Did any supervisors ever indicate to you
20	Q. Your partner at the time was Officer	20 verbally that using the head wrap technique was an
21	Caton, correct?	21 acceptable procedure for the City of Cincinnati
22	A. Yes.	22 Police Department?
23	Q. Had you employed this technique in the	23 A. No.
24	presence of Officer Caton in the past?	24 Q. Did you ever ask?
	Page 39	Page 41
1	A. I don't remember if I have or not.	1 A. No.
2	Q. Can you identify to me who the other	2 Q. In the course of events on the evening of
3	officers were who observed you apply this head wrap	3 November 7, 2000, at any time did you kneel on Mr.
4	technique before November 7th, 2000?	4 Owensby's back?
5	A. The major one that stands in my mind is	5 A. Yes.
6	Officer Dave Hunter. I trained a lot of recruits.	6 Q. When?
7	Which ones saw it, I'm not exactly sure.	7 A. When handcuffing started to take place I
8	Q. Where did you train recruits?	8 was able to relieve Mr. Owensby's left arm from
9	A. At D. Russell Lee vocational school in	9 under his stomach. And as I brought his arm back, I
10	Butler County.	10 applied a light bit of pressure with my left knee
11	Q. These are Cincinnati police officer	11 into the top part of his shoulder in order to get
12	recruits?	12 leverage to pull it out of his stomach area and
13	A. No.	13 bring it back to Officer Caton for handcuffing.
14	Q. What kind of recruits?	14 Q. That would be the scapular area --
15	A. Multi-jurisdictional. They range from	15 A. Yes.
16	just about every small department in Hamilton,	16 Q. -- of Mr. Owensby's back?
17	Butler, Warren, Clermont County.	17 A. Yes.
18	Q. Did you ever train other Cincinnati Police	18 Q. Was there ever a time when both your knees
19	Officers?	19 were on his back?
20	A. Technically, yes.	20 A. No.
21	Q. What do you mean by "technically, yes"?	21 Q. Do you know of any officer who that
22	A. I would give -- I trained recruits out of	22 evening had both their knees on Mr. Owensby's back?
23	the Academy that would ride with me for a period of	23 A. No.
24	12 weeks. I would train during roll call, during	24 Q. Do you know of any officer who also had

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1 his knee on Mr. Owensby's back?	1 A. No.
2 A. No.	2 Q. You don't know?
3 Q. You would be the only one?	3 A. I don't know.
4 A. As far as I'm aware, yes.	4 Q. Do you know if any lawyers were at the
5 Q. Were you carrying a cell phone on the	5 scene of the Sunoco station on the evening of
6 evening of November 7, 2000?	6 November 7th, 2000?
7 A. No.	7 A. I don't know.
8 Q. Your partner, Officer Caton was, correct?	8 Q. Do you know if any lawyers were at the
9 A. I believe Pat pretty much always had his	9 Sunoco station the morning of November -- or not the
10 cell phone with him.	10 morning, but on November 8, 2000?
11 Q. Is this -- with respect to Officer Caton's	11 A. No, I do not.
12 cell phone, is it a private cell phone or is it	12 Q. Have you had -- between November 7, 2000
13 something issued by the police department?	13 and March 2002, did you have any conversations with
14 A. It's his.	14 Officer Spellen?
15 Q. It's his cell phone. Do you know whether	15 A. I believe I did.
16 or not Abe Lawson carried a cell phone that night?	16 Q. And when I say any conversations, I'm
17 A. No, I do not.	17 limiting it to conversations about the events of
18 Q. You don't know one way or the other?	18 November 7th, 2000.
19 A. I don't know one way or the other.	19 A. No, I did not.
20 Q. How about Jason Hodge?	20 Q. Okay. So the conversations you had with
21 A. No idea.	21 Officer Spellen would be on other issues?
22 Q. Officer Hunter?	22 A. He was in court many a times. Since he
23 A. Don't know.	23 was a witness for the prosecution, I was not allowed
24 Q. Darren Sellers?	24 to talk to him. And that's basically what I said
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1 A. I don't know.	1 and walked away.
2 Q. And forgive me if you've already asked --	2 Q. I want to ask you about the first time
3 answered this, but did you -- did you have a cell	3 that you saw the person that was later identified to
4 phone?	4 you as LA. And I believe in your statement of
5 A. No, I did not.	5 March 2002 you indicated it was a couple weeks
6 Q. On that evening do you know whether or not	6 before November 7, 2000.
7 Officer Caton used his cell phone?	7 A. I -- it's been a long time. I don't know.
8 A. I don't know.	8 Q. Well, you understand the -- the period of
9 Q. When you left the scene of the Sunoco	9 time that I'm referring to?
10 station on that evening, where was Mr. Owensby?	10 A. Yes.
11 A. When I -- when I left?	11 Q. As I understand it from your statement you
12 Q. When you left.	12 were with Officer Hunter in, I believe your term is
13 A. I believe he was either in an ambulance in	13 "old clothes"; is that right?
14 route to the hospital or already at the hospital. I	14 A. Correct.
15 don't know.	15 Q. Would you explain for us what old clothes
16 Q. Did you ever return to the scene, either	16 are?
17 that evening or the next day?	17 A. Undercover work, surveillance, not in a
18 A. No, I did not.	18 marked police unit or any outside appearance that
19 Q. On the evening of November 7, 2000, did	19 you are a police officer.
20 you call a lawyer?	20 Q. Were you and Officer Hunter in a car?
21 A. No.	21 A. Yes.
22 Q. Do you know if any of the other officers	22 Q. What -- without going into any detail, can
23 involved in the arrest of Mr. Owensby called a	23 you tell me what kind of car it was?
24 lawyer on the night of November 7, 2000?	24 A. Very old, out of date, unsuspecting car.

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<p>1 to worry about it.</p> <p>2 If it's a general narcotic that you've 3 made an arrest, it depends on the person you've 4 arrested. If they're calm enough and you can 5 transport them back to the station, and while you're 6 sitting there filling out paperwork one of the 7 officers will fill out the property tag. The other 8 one will interview the suspect and get all paperwork 9 ready and take them down to booking.</p> <p>10 If the person that you're arresting 11 happens to be severely agitated or you had to fight 12 or resist or ran or chase, you take them straight 13 down to the jail. You book him down there.</p> <p>14 Now, depending on how busy the radio is, 15 if the radio's running you all over the place, you 16 don't have the time to get back to the property room 17 to log everything in, put it away. If the radio's 18 quiet that particular day you can go back to the 19 station, fill out your paperwork, have a boss sign 20 off on it, put it in the property room, and you're 21 done with it.</p> <p>22 But if the radio's running you all over 23 the place, or several times Pat and I or Victor and 24 I or anybody and I would be the only car working the</p>	Page 82	Page 84
<p>1 north end in the entire District 4. North of 2 Reading Road there'd be one person. It happened to 3 all of us. And you would run your butt off until 4 the end of the shift. And then you would have 5 stacks of property with ID cards and everything 6 else. And then you gotta go in and tag everything, 7 have the boss sign over it, stay over, and the whole 8 nine yards. So it would depend severely on the 9 situation.</p> <p>10 Q. And in those situations where you were 11 busy with the property or drugs or whatever it is 12 that you had seized in the course of performing your 13 duties, would that be kept in the trunk of the car?</p> <p>14 A. It depends on what it was. It depends if 15 heat affected it. It depends on if water affected 16 it. It depends on the property.</p> <p>17 If it's just a basic sma-- let's just say 18 a small dime bag of marijuana, where the elements 19 are not going to affect it or a crack pipe or a bag 20 of crack, you put it into a property envelope, you 21 seal the envelope so you don't lose the property in 22 the back of your trunk. We had our riot bags and 23 our other bags in our -- the trunk of our car.</p> <p>24 Riding with two people, you can't put the stuff up</p>	Page 83	Page 85

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1	(Plaintiffs' Exhibit 8 2 was marked for identi- 3 fication.)	1 guy is. Not that it was anything serious, and it's 2 not a homicide we're looking after him for, but to 3 go right back to where the original foot pursuit 4 ended with marked police officers being there, it 5 just seemed a little gutsy. We didn't run into that 6 a whole lot.
3	Q. I'll give you what is marked as Exhibit 8.	7 Q. Did you take that as a, in addition to 8 being gutsy, being a bit of a, I guess, disrespect?
4	MR. MARTINS: If it's okay with everybody 5 I'll just wait until he's done marking on it, 6 and then I'll make copies for everyone.	9 A. No.
7	Q. On Exhibit 8, again, we have a sketch.	10 Q. To the police officers?
8	Where were -- where was Officer Sellers' and Hasse's 9 vehicle?	11 A. No, I don't think so. It was just 12 shocking. I -- you know, with the time that I've 13 spent on the street, I haven't run into that before, 14 so it was just a little -- a little odd. It was the 15 first time I ran into that.
10	A. It's not able to be placed on this map.	16 Q. Did you look over to see who the 17 individual was that Officer Hunter was referring to?
11	Q. Okay. Because it's on the other side of 12 Sam's?	18 A. Yes.
13	A. On the other side of Sam's.	19 Q. And where was this person?
14	Q. Okay. But it was in the Sam's parking 15 lot?	20 A. He was on the other side of the street at 21 that point.
16	A. Correct.	22 Q. The other side of Seymour?
17	Q. Was the front of the car facing Seymour?	23 A. The other side of Seymour. And it was 24 dark enough, it wasn't very well lit, I couldn't
18	A. I believe so, yes.	
19	Q. Please continue. So what happens after --	
20	you're talking with Officer Sellers.	
21	A. I'm sorry. I was talking with Officer 22 Sellers about off-duty stuff, and I vaguely hear 23 Dave -- Officer Hunter -- sorry -- say, I believe it 24 was to Officer Caton, "That's the guy that ran from	
	Page 87	Page 89
1	me two weeks ago." Kind of sparked my attention	1 make him out from anyone.
2	from the conversation I was having with Officer	2 Q. Did you question Officer Hunter as to how 3 he could make this person out if it was dark and he 4 was across the street?
3	Sellers.	5 A. Not at that point.
4	Q. Now, all the officers here are uniformed, 5 correct?	6 Q. Okay. Please continue.
6	A. Correct.	7 A. And the reason was, as I was making my 8 comment I turned back to talk to Darren to let him 9 know I was going over with Pat and Dave, because 10 they had already started walking over to make an 11 identification.
7	Q. And there are three cruisers parked?	12 Q. Did you hear Officer Hunter say anything 13 else to Officer Caton?
8	A. I probably assume so. Yeah, three.	14 A. Not at that point.
9	Q. Well, there's yours, there's Sellers --	15 Q. When you say they started walking over, 16 which -- in which direction were they walking?
10	A. Mine, Sellers' --	17 A. From what I remember they walked in front 18 of Sam's. I don't know if they went over the 19 guardrail, around the guardrail, what the situation 20 was, or stepped over, and then started walking 21 towards the side of Sunoco.
11	Q. And Hunter's?	22 Q. I take it at this point in time the person 23 that was across the street that you saw had somehow 24 crossed Seymour Avenue?
12	A. And Hunter's, yeah.	
13	Q. Okay. Are all the cruisers facing 14 Seymour?	
15	A. I don't know.	
16	Q. All right. Continue.	
17	A. I made the comment to Darren, from what I 18 understand, "If that's him, he has a lot of balls 19 showing up here."	
20	Q. What did you mean by that?	
21	A. Well, it's -- it was made, at least 22 obvious for me, to the people on the street that, 23 you know, we don't just drive around and ask, hey, 24 do you know who this guy is, do you know who this	

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1	A. Yes, and was already in the store.	1 cruiser and picking up my night stick, which was
2	Q. Okay. Did you watch the person cross	2 either in the door or in the screen of our car.
3	Seymour Avenue?	3 Jogged up to catch up to them. At which point I
4	A. No.	4 believe they were probably five, ten feet away from
5	Q. Did you see the person cross or walk on	5 the side of the window on the Sunoco store. I stood
6	the sidewalk between your car and Seymour Avenue in	6 back, because I knew I couldn't identify him. And
7	front of Sam's?	7 Officer Hunter, I believe, made the statement to the
8	A. I looked once when the initial statement	8 effect, "I believe that's him." And Officer Caton
9	was made. Like I said, I wouldn't have never been	9 asked, "Are you sure?" And something to the effect
10	able to identify him. And I went back to tell --	10 of, "I can't tell from here, but I believe that's
11	you know, I turned my concentration to Darren real	11 him."
12	quick, told him I'd be back. Because at that point	12 Q. Now, can you indicate on that chart,
13	Officer Hunter started walking over and Officer	13 Exhibit -- or sketch, Exhibit 8, where you, Officer
14	Caton went with him.	14 Hunter, and Officer Caton were located at this time,
15	Q. The -- on Exhibit 8 that you have before	15 when you're standing outside --
16	you, are you -- can you identify where the person	16 A. Somewhere --
17	was that was across the street when you first saw	17 Q. -- the convenience store.
18	the person?	18 A. -- on the side of Sunoco. On the
19	A. Somewhere over here on the Seymour Avenue	19 northwest side there is a window. I don't know
20	side. I guess it would be, what, the west side --	20 exactly where it is, if it's in the front of the
21	Q. Okay.	21 store, the middle of the store, the side. I don't
22	A. -- of Seymour Avenue.	22 know. Wherever that window was, let's just say for
23	Q. Was the person even with Sam's or even	23 example it's right here (indicating).
24	with the Sunoco station? Was he at the crossing?	24 Q. Okay. Mark that with the letter A.
	Page 91	Page 93
1	A. He was at a distance. Whatever distance	1 A. (Witness complies.)
2	that was, it was a good distance away. I don't	2 Dave Hunter would be standing right in
3	remember exactly where he was at.	3 front of the glass. I was standing, one foot on
4	Q. As you faced Seymour Avenue was he to your	4 the -- the -- it was either a curb or a parking
5	left?	5 block, one foot up on that, one foot on the
6	A. Yes.	6 pavement, directly back from him. Where Caton was,
7	Q. Do you recall whether the person was	7 I don't know. He was either behind him, in front of
8	directly opposite the Sunoco station?	8 him, or on the side of him.
9	A. I don't know.	9 Q. Okay. Can you mark with an H where
10	Q. Did you see that person cross Seymour	10 Officer Hunter was, with a J where you were, and I
11	Avenue?	11 guess, you don't know where Officer Caton was,
12	A. No.	12 right?
13	Q. Did you see the person walking on the	13 A. (Witness complies.)
14	sidewalk that runs along Sam's and the Sunoco?	14 Don't remember.
15	A. On the side of the street I was standing	15 Q. Okay. How long are the three of you
16	on?	16 standing at the window?
17	Q. Yes, sir.	17 A. Long enough to have the conversation that
18	A. No, I did not.	18 I informed to you. Long enough for Dave to get a
19	Q. When you told Officer Sellers that you had	19 view of Mr. Owensby.
20	to go, because Officer Caton and Hunter had already	20 Q. Could you see into the Sunoco station, the
21	started walking, this person was out of your view?	21 convenience store?
22	A. Yes.	22 A. Unfortunately, I'm tall enough, they had a
23	Q. Please continue.	23 bunch of stuff blocking my way, that I could not see
24	A. I went back, first stopping at my police	24 clearly into the store. There was enough room for

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1 Dave and basically, from what I remember, one person
2 to look through.

3 Q. Did you try and crouch down to see in?

4 A. Dave wa-- I knew I couldn't identify, and
5 there was no reason for me to do that.

6 Q. So you did not?

7 A. No.

8 Q. Do you have any idea what, if anything,
9 Mr. Owensby purchased in the convenience store?
10 This would be at that time.

11 A. I knew -- from that time until I actually
12 had confronted him and started talking to him, I
13 knew he had a drink in his hand. That's the only
14 thing I can remember. Now, after the fact of people
15 telling me what he had and everything, sure, I know
16 some of the things he had. But at that time the
17 only thing I knew he had was the drink.

18 Q. And that's based on when you approached
19 him as he tried to leave the store?

20 A. Correct.

21 Q. Okay. So when the three of you were
22 standing there you have no idea if he's buying
23 anything or if he did, what he bought?

24 A. Exactly. Excuse me.

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1 (Discussion off the record.)

2 Q. Did you --

3 MR. HARDIN: I just want him to know that
4 he can take a break when he wants to if he
5 needs it.

6 MR. MARTINS: Sure. Do you want to take a
7 break?

8 THE WITNESS: I'm fine.

9 MR. MARTINS: Okay. And what we'll do is
10 maybe go another half-hour or so and then take
11 a break, unless -- unless you need a break
12 sooner, just say so.

13 THE WITNESS: (Nodding head.)

14 BY MR. MARTINS:

15 Q. All right. Before you left your car and
16 followed Officer Caton and Officer Hunter to the
17 convenience store at the Sunoco station, did you
18 advise the dispatcher or make any communications on
19 your radio concerning this?

20 A. I don't know if I did or not.

21 Q. Do you know if anyone did?

22 A. I'm sure it was probably done. By who, I
23 don't know.

24 Q. And Officer Sellers and Officer Hasse

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1 remained where they were parked?

2 A. I believe so, yes.

3 Q. Okay. So we're up to the point that you
4 and Officer Hunter and Officer Caton are standing
5 alongside the convenient store. Officer Hunter is
6 looking in the window, you're not sure where Officer
7 Caton is. What happens next?

8 A. It's decided that, you know, Dave really,
9 in my opinion, wasn't sure if it was the person that
10 ran from him or not. The only way to find out is we
11 can do a voluntary stop and see if he'll talk to us.
12 Since Dave was in old clothes and he may be used,
13 again, we wanted to keep Dave out of it as much as
14 we could.

15 Q. Well, Dave was in a uniform at this point?

16 A. Correct.

17 Q. Okay. And when I say Dave, I'm sorry, I
18 meant Officer Hunter. Right?

19 A. Yes.

20 Q. Okay. In your mind, at this point in time
21 you know that you're looking for an African
22 American, average height, average weight, nickname
23 of LA, correct?

24 A. Uh-huh.

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1 Q. Are there any other factors that you have
2 in your possession at this time as to the identity
3 of the person that you're looking for?

4 A. None.

5 Q. Did you hear anyone provide any
6 information before this point in time that the
7 person you were looking for was usually armed?

8 A. I've heard that, yes.

9 Q. But did you know -- at the time you're
10 standing outside the window, did you have any
11 knowledge of that?

12 A. Yes.

13 Q. Okay. How did you know or how did you
14 arrive at this information that the person you were
15 looking for was usually armed?

16 A. I don't know if "usually" was the exact
17 word. "Can be."

18 Q. Okay.

19 A. There was a teletype that was sent over
20 from one of the officers on third shift, I believe
21 it was, where the suspect -- or, I'm sorry, the
22 person that was shot at, there were two or three
23 drive-by shootings, and, I believe, the name LA was
24 mentioned on two of them. And that information is

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1 what was relayed to me.
2 Q. Was this on November 7th?
3 A. Before.
4 Q. Do you know how much before?
5 A. No.
6 Q. So this is some report that you had
7 received that there was a drive-by shooting -- do
8 you know where the shooting took place?
9 A. Somewhere up in Huntington Meadows area.
10 Q. And that somebody involved in the shooting
11 had a nickname of LA?
12 A. Correct.
13 Q. Did you have any information that the
14 person doing the shooting was --
15 A. No.
16 Q. -- went by the name of LA?
17 A. No.
18 Q. All right. Please continue. So you're at
19 the window.
20 A. So we walked to the front, and like I
21 said, I grabbed my night stick out of the holder of
22 my car to catch up to him, I never put it away. I
23 walk in front of the store, put it in my holder, and
24 I'm standing there waiting for Mr. Owensby to step

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1 Q. And what -- what did he say?
2 A. I believe he did say Roger Owensby. I
3 believe he did. I don't --
4 Q. And then -- sorry.
5 A. I don't exactly remember.
6 Q. And then, as to where does he live, did he
7 answer that question?
8 A. I think he said, "Not around here."
9 Q. Did he give any more -- did you follow up
10 and say, well, okay, if not around here, where?
11 A. I believe so. Like I said, it's been a
12 long time. I don't remember the exact question I
13 asked.
14 Q. And do you recall if he gave you any
15 further information, as far as where he lived?
16 A. No.
17 Q. Was he cooperative with you?
18 A. At first.
19 Q. Respectful?
20 A. Yes.
21 Q. Continue. What else happens?
22 A. I told him that we were looking for a
23 particular subject that ran from the police, and
24 that person has been known to carry a firearm. Was

1 out so we can talk to him.
2 When he steps out, I ask him if he can
3 talk to -- to me for a minute. He's -- he complies.
4 I have him go ahead and put his drink down.
5 Q. Was that the only thing in his hands, the
6 drink?
7 A. I believe so.
8 Q. Okay.
9 A. That was the only thing in his hand.
10 Q. Where is Officer Caton and Officer Hunter
11 at this point?
12 A. I don't remember. That night, I don't
13 remember where exactly they were until I went to put
14 on handcuffs. But keep in mind, I have seen the
15 video, so some of that plays in on where they were
16 at.
17 Q. All right. Continue.
18 A. I asked him if we can talk to him for a
19 minute. He says sure. I ask him what his name is,
20 where he lives, typical first questions on
21 something.
22 Q. Well, let's take the first question, as
23 far as his name. Did he answer you?
24 A. Yes.

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1 he armed? And he said no. And he starts to pull up
2 his shirt to show us that he's not carrying a
3 weapon. I told him to hold on. You know, there's a
4 way we do this. Do you mind if I pat you down? He
5 says no. I pat him down for weapons. I find none.
6 I continue my conversation with him.
7 The exact line of questions, who asked
8 what between me and Officer Caton, I don't recall
9 who asked what particular question.
10 Q. Do you recall, though, what questions were
11 asked?
12 A. Has he ever run from the police, has he
13 ever struck a police officer or something of that
14 nature.
15 Q. And what was his answer?
16 A. He did not. Ever having run from any
17 other police officer, no. He said he hasn't run in a
18 while -- I don't remember what exactly he responded,
19 and I don't want to --
20 Q. How about striking a police officer, did
21 he give you an answer to that?
22 A. I don't remember if he did or not.
23 Q. Please continue.
24 A. At some point in the interview either I or

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1 Officer Caton asked Officer Hunter, "Is this him?"
2 Like I said, I know Pat wasn't there, he was off
3 that day. I knew I couldn't identify him. So I
4 deferred to the officer involved and said, "Is this
5 the guy?"
6 Q. Now, at this point in time am I correct in
7 understanding, at least in your mind, you have no
8 probable cause to arrest him?
9 A. I have probable cause to keep talking with
10 him, but for the assault on the officer and the
11 obstructing and everything else, no. In my opinion,
12 I had no clue that this was the guy.
13 Q. You believed you had a reasonable
14 suspicion in order to stop and talk to him?
15 A. Yes.
16 Q. And that's based on what factors?
17 A. Officer Hunter.
18 Q. Please continue.
19 A. As Dave steps into the spotlight and says,
20 "Yes, that's the man that ran," or "That's the guy,"
21 or whatever it was he said, I then reached down and
22 grabbed the, I believe it was the -- would have been
23 the left wrist of Mr. Owensby, as I reached with my
24 right hand to grab my handcuffs. At which time he

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1 broke and ran past Pat, past Dave. I somewhere lost
2 my night stick and my handcuffs in a short pursuit.
3 Q. Let me -- let me stop you there. When --
4 when you reached for your handcuffs you reached with
5 your right hand for your handcuffs?
6 A. Yes.
7 Q. And your handcuffs are located on the back
8 of your belt?
9 A. Yes.
10 Q. Did you open the pouch and pull the
11 handcuffs out?
12 A. I don't know.
13 Q. Up to this point in time, did you ask this
14 individual if he went by the nickname of LA?
15 A. Not at that point, yet.
16 Q. Did Officer Caton ask if he went by LA?
17 A. I don't think anybody asked him if he went
18 by LA.
19 Q. Yeah. And so Hunter did not either?
20 A. I don't know if he did or not. I don't
21 remember him saying that -- or asking that.
22 Q. To your recollection, no one asked this
23 person that you had stopped to talk to whether or
24 not he went by the nickname of LA?

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1 A. No.
2 Q. Correct?
3 A. Correct.
4 Q. There was another person near the scene by
5 the name of George Weaver. Do you know George
6 Weaver?
7 A. Nope.
8 Q. Were there other African American males in
9 the vicinity?
10 A. Based on what I've seen on the video, yes.
11 Q. Were these other African American males,
12 would you classify them of average height and
13 average build?
14 A. Sure.
15 Q. Generally the same as Mr. Owensby?
16 A. I would say, yes.
17 Q. On the pat-down, you had satisfied
18 yourself that he was unarmed, right?
19 A. Yes.
20 Q. And in fact, he had told you he was
21 unarmed?
22 A. Correct.
23 Q. As part of the pat-down you felt something
24 in his right pocket, correct?

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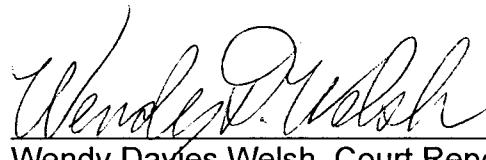
1 A. I don't remember which pocket it was in,
2 but --
3 Q. In a pants pocket?
4 A. In a pants pocket.
5 Q. What pocket?
6 A. I don't remember which pocket, both
7 pockets. I don't remember.
8 Q. And describe for me what you felt?
9 A. Based on my training and experience and
10 running the areas that I have with a lot of
11 narcotics possession, I felt what I believe was
12 marijuana in his pants.
13 Q. Large amount? Small am--
14 A. Large amount.
15 Q. I -- that's inaccurate for me. Could you
16 quantify the amount of marijuana that you thought
17 you felt in his pocket?
18 A. Hmm, about a decent size handful.
19 Q. Now, at this point in time you did not
20 know that he bought two cigars, right?
21 A. No.
22 Q. And you did not see any cigars when you
23 stopped him?
24 A. No, I didn't.

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1 Q. Do you know whether or not what you were 2 feeling in the pocket were two cigars? 3 A. Uh, if they'd been smashed apart and 4 dangling in his pocket, it could have been two 5 cigars. 6 Q. Did you feel anything else in the pocket? 7 A. Not that I can recall. 8 Q. You didn't feel anything that felt like 9 crack to you? 10 A. No. 11 Q. So let's go back. We're at the point 12 where Officer Hunter says, that's him, or some words 13 to that effect, correct? 14 A. Correct. 15 Q. And you reach with your right hand behind 16 to get your handcuffs while you're holding Mr. 17 Owensby's left wrist? 18 A. Correct. 19 Q. With your left hand? 20 A. (Nodding head.) 21 Q. What happens then? 22 A. He breaks and runs between Pat and Dave. 23 Q. Between Hunter? 24 A. Between Hunter and Caton. Goes, I guess	1 passenger rear side of the car is almost over into 2 the area that's painted with diagonal stripes -- 3 A. Yes. 4 Q. -- on the ground. Okay. Is that about 5 where you and Mr. Owensby collided with the car? 6 A. If that's the car that we ran into, then 7 yes, that would be it. 8 Q. Well, as far as distance from the door, 9 would that be about where you folks collided? 10 A. Yes. 11 Q. When you grabbed -- I guess you grabbed 12 Mr. Owensby from behind, correct? 13 A. Yes. 14 Q. Was it around the shoulders, the waist, 15 the hips? 16 A. As he was running I believe it was his 17 left arm is what I tried to trap as I grabbed his 18 shoulder. 19 Q. Okay. So your right hand is on his 20 shoulder? 21 A. Top of his shoulder. 22 Q. Your -- 23 A. And as -- my left arm was going around his 24 arm and around his stomach.
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1 it would have been like northwest, through the 2 parking lot, only managing to get maybe 20 feet when 3 I caught up to him, and unfortunately, we both 4 collided into a car there. And as I tried to take 5 him to the ground, we both kind of tripped and fell. 6 I landed on my back, and he landed on top of me, my 7 chest to his back. 8 Q. Do you know if Officer Caton also tackled 9 Mr. Owensby? 10 A. No. I was the only one that tackled him. 11 Q. The car that you hit -- 12 <small>(Plaintiffs' Exhibit 9 was marked for identification.)</small> 13 Q. Let me show you Exhibit 9. Is that the 14 car that you and Mr. Owensby ran into? 15 A. I don't know. If that's the one that was 16 parked at the lot that everybody marked out, then 17 that's the car. Is that the one? I don't know. 18 Q. Okay. Look back at Exhibit 8. Do you see 19 that there is a car parked just to the left of the 20 entrance as you're facing the entrance of the 21 convenience store? 22 A. Yes. 23 Q. Do you see that? And it's -- the	1 Q. Okay. And both of you hit this parked 2 car? 3 A. Yes. 4 Q. Where on the parked car did you hit? 5 A. I don't remember. It was towards the back 6 of the vehicle. 7 Q. What part of your body hit the parked car? 8 A. Well, he hit the car and I hit him. We 9 didn't actually both make contact with the vehicle, 10 but we both went into the vehicle, but he was 11 between me. 12 Q. Do you know what part of Mr. Owensby made 13 contact with the car? 14 A. I don't know. He was still standing up, 15 so it probably was midsection. 16 Q. Do you know if his head hit the car? 17 A. I don't know. 18 Q. Did Mr. -- between the time that Mr. 19 Owensby tried to run away from where you were 20 questioning him to the time that you tackled him at 21 the rear portion of the car, did Mr. Owensby stop 22 running? 23 A. No. He stutter stepped. 24 Q. Okay. And in the stutter step, where were
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AFFIDAVIT

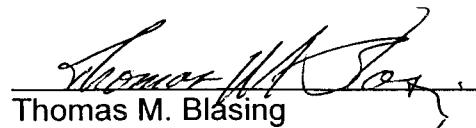
STATE OF OHIO :
COUNTY OF HAMILTON : SS :

I, Wendy Davies Welsh, Notary Public in and for the State of Ohio,
do hereby state that the transcript of the deposition of
Robert B. Jorg, deponent herein, having been submitted
to said deponent for review and signature, has not been signed
within the thirty (30) day period allowed under the Federal Rules; said
deposition to now have the same force and effect as though signed.



Wendy Davies Welsh, Court Reporter

Sworn to before me this 5 day of January, 2004



Thomas M. Blasing
Notary Public - State of Ohio
My commission expires: May 4, 2004